

REMARKS

I. Introduction

Claims 10-11 and 14-18 are pending in the present application. In view of the following explanations, it is respectfully submitted that all of the presently pending claims 10-11 and 14-18 are allowable, and reconsideration of the pending claims is respectfully requested.

The Examiner objected to the IDS mailed on December 19, 2005, "because it does not include a concise explanation of the relevance." The Examiner contends that the "English abstract [submitted by the Applicants] did not provide sufficient detail for the Examiner to consider the art." Applicants respectfully submit that the reference cited in the 12/19/05 IDS should be considered and made of record in this application because M.P.E.P 609.04(a)III clearly indicates that submission of an English language abstract of the reference is sufficient to fulfill the requirement for a concise explanation. In addition, Applicants respectfully note that there is no requirement for the "concise explanation of the relevance" to be of "sufficient detail for the Examiner to consider the art." In any case, Applicants note that the English abstract provided with the 12/19/05 IDS contains a page and a half of description, which is deemed more than sufficient in terms of detail that may be provided in the context of "a concise explanation." For at least these reasons, Applicants respectfully request that the Examiner withdraw the objection to the 12/19/05 IDS and consider the referenced cited therein.

II. Rejection of Claims 10, 11 & 14-18

Claims 10, 11 and 14-18 were rejected under 35 U.S.C. § 103(a) as being obvious in view of the combination of U.S. Patent 5,745,576 ("Abraham") and U.S. Patent 4,797,672 ("Kousa"). Applicants respectfully submit that this rejection should be withdrawn for the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or

combine the reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). The prior art must suggest combining the features in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296; In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 10 recites the following:

10. A system for controlling an access authorization, comprising:
a base device including a computer, wherein the base device initially transmits a prompt signal within a framework of an initial prompt/reply cycle that is successfully carried out, **and wherein the prompt signal is stored in the base device;** and

at least one remote control storing the initially transmitted prompt signal from the initial prompt/reply cycle;

wherein, in an access authorization process, subsequent to the previous, initial prompt/reply cycle that is successfully carried out, the at least one remote control transmits to the base device a code word containing a reply, the reply being formed at least partially as a function of the prompt signal stored in the at least one remote control, wherein the base device receives the code word containing the reply and compares the reply contained in the code word with a required reply, wherein an access is authorized if the reply contained in the code word agrees with the required reply, **and wherein the prompt signal stored in the base device is erased when a number of failed agreements of the reply and the required reply exceeds a specifiable limiting value.**

In support of the rejection, the Examiner contends that “key exchange to begin a session is well known in the art,” and therefore it would have been obvious to “use key exchange preceding Abraham to prevent eavesdropping.” In addition, the Examiner “takes official notice that it is well known in the art to check failed attempts to connect, and to **abandon an access process** after a predetermined number of failures,” and therefore, the Examiner concludes that it would have been obvious “to use this check in Abraham’s system to avoid eternal loops, and to increase security against hacking.” (Office Action, p. 3). In support of this conclusion, the Examiner cites U.S. Patent 6,070,243 (“See”) as disclosing “terminating a session with a user after a predetermined number of failed login attempts,” as well as citing Applied Cryptography (“Schneier”) as disclosing that “session keys are erased when a session is ended.” (Office Action, p. 3). Applicants respectfully submit that the overall disclosures of the applied references do not support the Examiner’s obviousness conclusion, as explained in detail below.

As explicitly acknowledged by the Examiner, “Abraham does not disclose that an initial stored prompt from a successful prompt/reply cycle is used to encrypt the authorization information.” In fact, the teachings of Abraham are even more fundamentally different from the Applicants’ claimed invention. Abraham differs from the claimed subject matter in that the inquiry signal (*encrypted challenge message*) is not stored, but only an **initial terminal key is stored** in the remote control (*cryptographic terminal*). (See, e.g., claim 1 of Abraham: “*storing said initial terminal key in said cryptographic terminal...*”). An encoded reply signal is then generated and transmitted back to the controller, using the stored initial terminal key in connection with the inquiry signal received by the terminal. (See, e.g., claim 1 of Abraham: “*encrypting a response message at said cryptographic terminal using said terminal key and transmitting said encrypted response message to said controller*”). Accordingly, it is clear that the inquiry signal of Abraham is not stored in the terminal.

In addition to the above, Abraham does not teach or suggest a system for **access authorization**, as recited in the present claims; instead, Abraham only discusses the initialization procedure of a cryptographic terminal in a cryptographic system (column 5, lines 10 through 12 and 25 through 26: *The initial key, or a key derived from it, is used only for initialization purposes and not for system operation*). Therefore, one skilled in the art

would not be motivated by the teachings of Abraham, in combination with the teachings of Kousa, to arrive at the presently claimed subject matter.

Even if one assumed for the sake of argument that there were some motivation to combine the teachings of Abraham and Kousa, with which assumption Applicants do not agree, the asserted combination would not render the present claims obvious. While Kousa discusses, e.g., in column 2, lines 3-10, that two consecutive inquiry/response dialogues (*hand shakes*) are carried out for system identification in a secure transmission system, nothing in Kousa suggests that, in this case, **the inquiry signal is stored in the node**. To the extent the Examiner contends that “key exchange to begin a session is well known in the art,” and therefore it would have been obvious to “use key exchange preceding Abraham to prevent eavesdropping,” Applicants submit that the Examiner’s contentions are nothing more than pure speculation. Since the Examiner appears to be relying on personal knowledge for the asserted official notice, and since the Examiner has not provided “specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge,” Applicants respectfully traverse the Examiner’s official notice, and Applicants request that the Examiner provide a documentary support for the conclusion contained in the official notice. (See MPEP 2144.03B).

Independent of the above, even if one assumed for the sake of argument that the Examiner’s official notice were correct (with which assumption Applicants do not agree), the Examiner’s official notice does not adequately support the obviousness conclusion because even if “key exchange to begin a session is well known in the art,” it does not logically follow that one of ordinary skill in the art would be motivated to store a prompt from “an initial prompt/reply cycle that is successfully carried out,” and subsequently use the stored prompt. Accordingly, the combination of Abraham, Kousa, See and Schneier fails to teach or suggest “in an access authorization process, subsequent to the previous, initial prompt/reply cycle that is successfully carried out, the at least one remote control transmits to the base device a code word containing a reply, the reply being formed at least partially as a function of the prompt signal stored in the at least one remote control,” as recited in claim 10.

With respect to the Examiner’s assertions that See teaches “terminating a session with a user after a predetermined number of failed login attempts,” and that Schneier teaches “session keys are erased when a session is ended,” Applicants note that the present claimed invention provides for the stored inquiry signal to be deleted in the remote control,

when the number of incorrect instances of conformity between reply Rx and required reply Sx exceeds a specific value. In contrast to the claimed feature, neither See nor Schneier suggests such a procedure, since See does not address deletion of session keys at all, and since Schneier does not disclose any deletion **as a function of a number of incorrect attempts**; instead, Schneier merely discloses deletion at the end of a session. To the extent the Examiner is contending that the claimed feature of "the prompt signal stored in the base device is erased when a number of failed agreements of the reply and the required reply exceeds a specifiable limiting value" is taught by the combination of See and Schneier, Applicants submit that the overall teachings of See and Schneier do not provide the requisite motivation to combine the teachings of See and Schneier in an attempt to arrive at the claimed feature.

Accordingly, for at least the foregoing reasons, claim 10 and its dependent claims 11 and 14-18 are not rendered obvious by the combination of Abraham, Kousa, See and Schneier.

CONCLUSION

Applicants respectfully submit that all pending claims of the present application are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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